

AMENDED IN SENATE JUNE 25, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

No. 135

**Introduced by Assembly Member Reyes**

*(Coauthors: Assembly Members Koretz, Montanez, and Mullin)*

*(Coauthors: Senators Alarcon, Escutia, Murray, and Soto)*

January 16, 2003

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An act to add ~~Section 200 to the Penal Code, relating to homicide victims.~~ *Chapter 6.5 (commencing with Section 1111) to Part 3 of Division 2 of the Labor Code, relating to employment.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 135, as amended, Reyes. ~~Homicide victims~~ *On-air broadcast employees.*

~~Existing law regulates the disposition of human remains, and makes it a misdemeanor to remove uncremated human remains from the district where death occurs, except as specified.~~

~~This bill would provide that every person who steals, takes, or moves the body of any person who has been the victim of a homicide into another country, state, or county, or into another part of the same county with the intent to conceal the body from law enforcement, or to prevent or obstruct the investigation or prosecution of any crime related to the homicide, is guilty of a felony punishable by 2, 3, or 4 years in the state prison.~~

~~By creating a new crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

*Under existing law, broadcast employers may restrict on-air employees from seeking and accepting other employment, both during the term of employment and afterwards.*

*This bill would make it unlawful for broadcast employers to restrict specified on-air employees from seeking and accepting other employment that commences after the term of the employment contract, and would provide specified damages, as well as attorney's fees and costs, if an on-air employee prevails in an action challenging the restriction.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1.—Section 200 is added to the Penal Code, to read:~~
- 2     ~~200. Every person who steals, takes, or moves the body of a~~
- 3     ~~homicide victim into another country, state, county, or into another~~
- 4     ~~part of the same county with the intent to conceal the body from~~
- 5     ~~law enforcement, or to prevent or obstruct the investigation or~~
- 6     ~~prosecution of any crime related to the homicide, is guilty of a~~
- 7     ~~felony punishable by two, three, or four years in the state prison.~~
- 8     ~~SEC. 2.—No reimbursement is required by this act pursuant to~~
- 9     ~~Section 6 of Article XIII B of the California Constitution because~~
- 10    ~~the only costs that may be incurred by a local agency or school~~
- 11    ~~district will be incurred because this act creates a new crime or~~
- 12    ~~infraction, eliminates a crime or infraction, or changes the penalty~~
- 13    ~~for a crime or infraction, within the meaning of Section 17556 of~~
- 14    ~~the Government Code, or changes the definition of a crime within~~
- 15    ~~the meaning of Section 6 of Article XIII B of the California~~
- 16    ~~Constitution.~~
- 17    ~~SECTION 1. Chapter 6.5 (commencing with Section 1111) is~~
- 18    ~~added to Part 3 of Division 2 of the Labor Code, to read:~~
- 19

1 CHAPTER 6.5. THE BROADCAST INDUSTRY FREEDOM OF CONTRACT  
2 ACT  
3

4 1111. This chapter shall be known and may be cited as the  
5 Broadcast Industry Freedom of Contract Act.

6 1112. As used in this chapter:

7 (a) "Broadcast employer" means an employer that is a  
8 television station, television network, radio station, radio network,  
9 or other similar entity and employs on-air employees.

10 (b) "On-air employee" means a person who performs live or  
11 pre-recorded on-camera or audio announcing duties for a  
12 broadcast employer, whether the content is delivered over the air  
13 waves or by cable, satellite, Internet, or other means of delivery.

14 (c) "Prospective employment access restriction" means a term  
15 or a clause in an employment contract between a broadcast  
16 employer and an on-air employee that does one of the following:

17 (1) Requires an on-air employee to negotiate exclusively with  
18 a broadcast employer concerning continued or future employment  
19 that commences after the term of the employment contract, during  
20 the final six months of an employment contract or after the term of  
21 an employment contract.

22 (2) Prohibits or limits an on-air employee, during any portion  
23 of the term of an employment contract with a broadcast employer,  
24 from communicating or negotiating with any third party or  
25 entering into an agreement of any kind concerning employment  
26 that commences after the term of the employment contract.

27 (3) Imposes any "first-refusal" or other obligations upon an  
28 on-air employee, permitting a broadcast employer to prevent an  
29 on-air employee from accepting employment that commences after  
30 the term of the employment contract with a new prospective  
31 employer by matching the compensation or other benefits offered  
32 by the new prospective employer.

33 1113. It is an unlawful employment practice for a broadcast  
34 employer to include in any employment contract with an on-air  
35 employee a provision that is a prospective employment access  
36 restriction.

37 1114. Any person aggrieved by a violation of the provisions of  
38 this chapter may bring an action for damages or for declaratory  
39 or injunctive relief. If the plaintiff prevails in an action under this  
40 section, the plaintiff shall be entitled to recover damages actually

- 1 *incurred or five thousand dollars (\$5,000), whichever is greater;*
- 2 *and shall be awarded reasonable attorney's fees and costs.*
- 3 *1114.5. Nothing in this chapter limits or alters any rights*
- 4 *established under any other provision of law.*

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